

§ 201.44

9 CFR Ch. II (1–1–03 Edition)

or the duly authorized agent, in the absence of any knowledge that any other person, or persons, has any interest in the livestock, the net proceeds received from the sale and a true written account of such sale, showing the number, weight, and price of each kind of animal sold, the date of sale, the commission, yardage, and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

(b) *Prompt payment for livestock and live poultry—terms and conditions.* (1) No packer, market agency, or dealer shall purchase livestock for which payment is made by a draft which is not a check, unless the seller expressly agrees in writing before the transaction that payment may be made by such a draft. (In cases of packers whose average annual purchases exceed \$500,000, and market agencies and dealers acting as agents for such packers, see also § 201.200).

(2)(i) No packer, market agency, or dealer purchasing livestock for cash and not on credit, whether for slaughter or not for slaughter, shall mail a check in payment for the livestock unless the check is placed in an envelope with proper first class postage prepaid and properly addressed to the seller or such person as he may direct, in a post office, letter box, or other receptacle regularly used for the deposit of mail for delivery, from which such envelope is scheduled to be collected (A) before the close of the next business day following the purchase of livestock and transfer of possession thereof, or (B) in the case of a purchase on a “carcass” or “grade and yield” basis, before the close of the first business day following determination of the purchase price.

(ii) No packer, market agency, or dealer purchasing livestock for slaughter, shall mail a check in payment for the livestock unless (A) the check is made available for actual delivery and the seller or his duly authorized representative is not present to receive payment, at the point of transfer of possession of such livestock, on or before the close of the next business day following the purchase of the livestock and transfer of possession thereof, or, in the case of a purchase on a “car-

cass” or “grade and yield” basis, on or before the close of the first business day following determination of the purchase price; or unless (B) the seller expressly agrees in writing before the transaction that payment may be made by such mailing of a check.

(3) Any agreement referred to in paragraph (b) (1) or (2) of this section shall be disclosed in the records of any market agency or dealer selling such livestock, and in the records of the packer, market agency, or dealer purchasing such livestock, and retained by such person for such time as is required by any law, or by written notice served on such person by the Administrator, but not less than two calendar years from the date of expiration thereof.

(4) No packer, live poultry dealer, market agency, or livestock dealer shall as a condition to its purchase of livestock or poultry, impose, demand, compel or dictate the terms or manner of payment, or attempt to obtain a payment agreement from a seller through any threat of retaliation or other form of intimidation.

(c) *Purchaser to promptly reimburse agents.* Each packer, market agency, or dealer who utilizes or employs an agent to purchase livestock for him, shall, in transactions where such agent uses his own funds to pay for livestock purchased on order, transmit or deliver to such agent the full amount of the purchase price before the close of the next business day following receipt of notification of the payment of such purchase price, unless otherwise expressly agreed between the parties before the purchase of the livestock. Any such agreement shall be disclosed in the records of the principal and in the records of any market agency or dealer acting as such agent.

(Approved by the Office of Management and Budget under control number 0590-0001)

(7 U.S.C. 228, 7 U.S.C. 222, and 15 U.S.C. 46)

[49 FR 6083, Feb. 17, 1984, as amended at 49 FR 8235, Mar. 6, 1984; 54 FR 16355, Apr. 24, 1989]

§ 201.44 Market agencies to render prompt accounting for purchases on order.

Each market agency shall, promptly following the purchase of livestock on a commission or agency basis, transmit

or deliver to the person for whose account such purchase was made, or the duly authorized agent, a true written account of the purchase showing the number, weight, and price of each kind of animal purchased, the names of the persons from whom purchased, the date of purchase, the commission and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

(Approved by the Office of Management and Budget under control number 0590-0001)

(7 U.S.C. 181 et seq.)

[44 FR 45360, Aug. 2, 1979, as amended at 54 FR 26349, June 23, 1989]

§ 201.45 Market agencies to make records available for inspection by owners, consignors, and purchasers.

Each market agency engaged in the business of selling or buying livestock on a commission or agency basis shall, on request from an owner, consignor, or purchaser, make available copies of bills covering charges paid by such market agency for and on behalf of the owner, consignor, or purchaser which were deducted from the gross proceeds of the sale of livestock or added to the purchase price thereof when accounting for the sale or purchase.

(Approved by the Office of Management and Budget under control number 0590-0001)

(7 U.S.C. 181 et seq.; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.))

[19 FR 4528, July 22, 1954, as amended at 44 FR 45361, Aug. 2, 1979; 47 FR 746, Jan. 7, 1982; 54 FR 26349, June 23, 1989]

§ 201.49 Requirements regarding scale tickets evidencing weighing of livestock, live poultry, and feed.

(a) *Livestock*. When livestock is weighed for the purpose of purchase or sale, a scale ticket shall be issued which shall be serially numbered and used in numerical sequence. Sufficient copies shall be executed to provide a copy to all parties to the transaction. In instances where the weight values are automatically recorded directly on the account of purchase, account of sale or other basic record, this record may serve in lieu of a scale ticket. When livestock is purchased on a car-

cass weight or carcass grade and weight basis, the hot carcass weights shall be recorded using a scale equipped with a printing device, and such printed weights shall be retained as part of the person or firm's business records to substantiate settlement on each transaction. Scale tickets issued under this section shall show:

(1) The names and location of the agency performing the weighing service;

(2) The date of the weighing;

(3) The name of the buyer and seller or consignor, or a designation by which they may be readily identified;

(4) The number of head;

(5) Kind of livestock;

(6) Actual weight of each draft of livestock; and

(7) The name, initials, or number of the person who weighed the livestock, or if required by State law, the signature of the weigher.

(b) *Poultry*. When live poultry is weighed for the purpose of purchase, sale, acquisition, or settlement by a live poultry dealer, a scale ticket shall be issued which shall show:

(1) The name of the agency performing the weighing service;

(2) The name of the live poultry dealer;

(3) The name and address of the grower, purchaser, or seller;

(4) The name or initials or number of the person who weighed the poultry, or if required by State law, the signature of the weigher;

(5) The location of the scale;

(6) The gross weight, tare weight, and net weight;

(7) The date and time gross weight and tare weight are determined;

(8) The number of poultry weighed;

(9) The weather conditions;

(10) Whether the driver was on or off the truck at the time of weighing; and

(11) The license number of the truck or the truck number; *provided*, that when live poultry is weighed on a scale other than a vehicle scale, the scale ticket need not show the information specified in paragraphs (b)(9)-(11) of this section. Scale tickets issued under this paragraph shall be at least in duplicate form and shall be serially numbered and used in numerical sequence. One copy shall be furnished to the